# INTERFERENCE DIGEST

Interference No.	105,500	Paper No.
Name: Michael Brin	es et al.	
Serial No.: 09/54	7,220	Patent No.
Title: Methods for tr	eating cerebra	al ischemia by peripherally administered erythropoietin
Filed: 04/11/00		
Interference with Eh	renreich et al	
		DECISION ON MOTIONS
Administrative Pater	nt Judge,	Dated,
		<u> </u>
		FINAL DECISION
Board of Patent App	eals and Inter	rferences,Dated,
		· · · · · · · · · · · · · · · · · · ·
		Dated,
		REMARKS
This should be placed in	each application	on or patent involved in interference in addition to the interference letters.



# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge James T. Moore Telephone: 571-272-4683 Facsimile: 571-273-0042

MAILED

SEP 1 9 2006

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES **Applicants: BRINES** 

Application No.: 09/547,220

Filed: 04/11/00

For: Methods for treatment of cerebral ischaemia

by peripherally administered erythropoietin

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,500.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/James T. Moore/ JAMES T. MOORE Administrative Patent Judge

Filed 19 September 2006

Mail Stop Interference P.O. Box 1450 Alexandria Va 22313-1450

Tel: 571-272-4683 Fax: 571-273-0042

### UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Administrative Patent Judge James T. Moore)

Hannelore Ehrenreich and Christoph Gleiter Junior Party (Application 09/868,089),

٧.

Michael Brines, Anthony Cerami, and Carla Cerami Senior Party (Application 09/547,220)



Patent Interference No. 105,500 (JTM) (Technology Center 1600)

DECLARATION - Bd.R. 203(b)<sup>1</sup>

#### Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the applications and claims designated as corresponding or as not corresponding to the counts appear in Parts E and F of this DECLARATION.

<sup>&</sup>lt;sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

#### Part B. Judge managing the interference

Administrative Patent Judge James T. Moore has been designated to manage the interference. Bd. R. 104(a).

#### Part C. Standing order

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

#### Part D. Initial conference call

A telephone conference call to discuss the interference is set for 2:00 p.m. on November 15, 2006 (the Board will initiate the call).

No later than **November 9, 2006**, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

#### Part E. Identification and order of the parties

#### Junior Party

Named inventors: HANNELORE EHRENREICH, GOTTINGEN, GERMANY

CHRISTOPH GLEITER, TUBINGEN, GERMANY

Involved Application: 09/868,089, filed June 28, 2001

Title: METHOD FOR THE TREATMENT OF CEREBRAL ISCHAEMIA AND USE OF ERYTHROPOIETIN OR ERYTHROPOIETIN DERIVATIVES FOR THE TREATMENT OF CEREBRAL ISCHAEMIA

Assignee: None

## Senior Party

Named Inventors: MICHAEL BRINES, WOODBRIDGE, CONNECTICUT, USA

ANTHONY CERAMI, NEW YORK, NEW YORK, USA

CARLA CERAMI, SLEEPY HOLLOW, NEW YORK, USA

Involved Application: 09/547,220

Title: METHODS FOR TREATING CEREBRAL ISCHEMIA BY PERIPHERALLY

ADMINISTERED ERYTHROPOIETIN

Assignee: THE KENNETH S. WARREN LABORATORIES

765 OLD SAW MILL RIVER ROAD TARRYTOWN, NEW YORK 10591

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

#### Part F. Count and claims of the parties

Count 1

Claim 1 of 09/868,089

or

The method of Claim 28 of 09/547,220 wherein said erythropoietin is administered at a dosage of 50,000 to 100,000 Units per administration or per day,

The claims of the parties are:

EHRENREICH: 1-4, 6-8, and 25-33

BRINES: 28-39 and 52-64

The claims of the parties which correspond to Count 1 are:

EHRENREICH: 1-4, 6-8, and 25-33

BRINES: 28-39 and 52-64

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

**EHRENREICH: NONE** 

**BRINES: NONE** 

The parties are accorded the following benefit for Count 1:

EHRENREICH: NONE (no certified translations)

BRINES: 60/129,131, April 13, 1999

## Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see SO ¶ 106.1.1:

#### UNITED STATES PATENT AND TRADEMARK OFFICE

# BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

(Administrative Patent Judge James T. Moore)

Hannelore Ehrenreich and Christoph Gleiter Junior Party (Application 09/868,089),

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Michael Brines, Anthony Cerami, and Carla Cerami Senior Party (Application 09/547,220)

Patent Interference No. 105,500 (JTM) (Technology Center 1600)

PAPER TITLE

## Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/James T. Moore/ Administrative Patent Judge

Enc:

Copy of STANDING ORDER Copy of claims of application 09/868,089 Copy of claims of application 09/547,220

Revised 3 January 2006

# cc (via overnight delivery):

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